

(2025) 04 OHC CK 1330
In the Orissa High Court
Case No : Writ Petition (C) No. 18389 Of 2024

Rojalin Pradhan

APPELLANT

Vs

State Of Odisha And Others Vs

RESPONDENT

Date of Decision : 29-04-2025

Acts Referred:

Constitution of India, 1950 — Article 32, 226, 300A
Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 — Section 11

Citation : (2025) 04 OHC CK 1330

Hon'ble Judges : Harish Tandon, CJ; M.S. Raman, J

Bench : Division Bench

Advocate : Biswambar Mohanty, Aishwarya Dash

Final Decision : Dismissed

Judgement

Harish Tandon, CJ.

1. The pleading in the instant writ petition at the behest of a Sarpanch of a Gram Panchayat leaves no ambiguity in our mind that it is more a personal interest litigation than a Public Interest Litigation (PIL). The writ petition is filed pretending that it is in the nature of public interest but in fact, raising a grievance to avoid any scuttle in the mind of the villagers of the said Gram Panchayat who elected the Panchayat members which resulted into the selection of a Sarpanch. The right to acquire the land is vested in a sovereign and emerged from a doctrine of eminent domain. The sovereign can acquire the property for larger public purposes benefitting the large section of the society and in lieu of the deprivation of the land, the law in place mandates determination of a market value as compensation to be paid to the persons whose land is taken for the public purpose.

2. Initially, the Right to Property was enshrined within Part-III of the Constitution of India which was subsequently taken away and found place in the form of Article 300A of the Constitution of India. The Right to Property is no doubt a

Constitutional right and is no longer a Fundamental Right and if the Government intends to acquire the land for the benefit of a large number of people, so long the public purpose exists, it is not open to a citizen to claim that the Government cannot take the immovable property.

3. Interestingly, this Public Interest Litigation is filed at the behest of the Sarpanch, solely, on the basis of a resolution that the decision to acquire the property has been taken and the process of law is activated. The Sarpanch as petitioner uses the tool of the Public Interest Litigation to achieve the purpose which could have been achieved otherwise under the Right to Information Act. It is prayed in the instant writ petition whether any acquisition proceeding has been initiated, if initiated, under what provision of law. If the acquisition has been made, whether any rehabilitation and/or resettlement scheme has been framed for those persons, whose land has been acquired by the Government. A litigant should not be permitted to treat the Court as a forum for gathering evidence or fishing out evidence nor the writ Court should be converted into a Court of convenience. A litigant must plead explicitly which would give a colour of a public nature and cannot settle their personal scores using the fiat of Article 226 of the Constitution of India.

4. Since the Public Interest Litigation was entertained at an earlier point of time and a question was raised on the locus standi of the Sarpanch to maintain the Public Interest Litigation, it is arduously submitted by learned counsel for the petitioner that the office of the Sarpanch is not an office of profit as he renders pro bono services.

5. We do not delve to go into such aspect whether the office of the Sarpanch is an office of profit as we find that the issues which could have been resolved through other form of the writ, the writ in the nature of Public Interest Litigation cannot be said to be maintainable. Though there is no distinction in the Constitution conferring power upon the High Courts or the Supreme Court under Article 226 or 32 of the Constitution of India respectively relating to a Public Interest Litigation but, the genesis thereof can be traced from a common law principle duly accepted and adopted in the Indian legal parlance. It is an effective tool where the Court can step in directing the Government not to transgress the statutory barriers nor should act selectively but must act in fairness without inculcating a sense of discrimination into the citizenry.

6. In recent times, the writ in nature of Public Interest Litigation is exploding the dockets of the High Court in relation to an infringement of a personal right arising under the realm of a private law or at times, injury suffered by an individual because of the wrong application of law or non-adherence of law or at times in flagrant violation of law. The writ under Article 226 of the Constitution encompasses the remedy to an aggrieved person but by no stretch of imagination, it can be resorted under the Public Interest Litigation.

7. We do not find that the petitioner has made out a case to bring within the

ambit of the Public Interest Litigation but pretending that it would impact a large number of villagers, the Public Interest Litigation came to be filed at the behest of a Sarpanch.

8. Two issues were raised by the villagers, one in relation to acquisition proceeding initiated under Act 1 of 1894 for NALCO and the other under Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 in relation to Vedanta.

9. Ms. Dash, learned Additional Standing Counsel (ASC) for the State submits that so far as the acquisition relating to NALCO is concerned, it was initiated under Act 1 of 1894 and after determination of the market value, the award was passed by the Collector and the amount deposited in terms of Section 11 of the said Act. The moment the Collector awarded the compensation, the possession of the property vests into the Government and whether any rehabilitation or resettlement scheme should be framed by the Government is in effect a policy decision to be taken before the Act of 2013 came into force.

10. However, the Government has consciously adopted a policy by framing the rehabilitation and resettlement scheme and the persons who have lost their land, have received the benefit therefrom and according to the learned ASC for the State, such process is still ongoing. So far as the acquisition for Vedanta is concerned, it is fairly submitted by the learned ASC for the State that apart from a notification under Section 4 of the 2013 Act, no steps have yet been taken for publication of a declaration and, therefore, in our opinion, the same is at the nebulous stage and no right is fructified into a person.

11. From whatever angle we look at, do not find that the instant writ petition in the nature of Public Interest Litigation is maintainable, either in law or on facts.

12. The writ petition is hereby dismissed.

.....